IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (Lodg). NO.431 OF 2006
IN
NOTICE OF MOTION NO.1673 OF 2006
IN
SUIT NO.1434 OF 2006

Bachher Investment P. Ltd. ..Appellant

Vs.

Model Mig Co.Op.Housing Society Ltd. ..Respondents

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Mr.S.Naphade Senior Counsel with Mr.Shailesh Shah, Vijay Nair i/b N.G.Bhatt for Appellant
Mr.P.K.Dhakephalkar with Mr.R.R.Sharma for Respondents

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CORAM: F.I.REBELLO AND
SMT.V.K.TAHILRAMANI,JJ.
DATE : JUNE 6, 2006

P.C.

1. This Appeal is directed against the rejection of relief of injunction at the ad-interim stage. Both the parties were heard before the order was passed. The case prima facie, is based on a development agreement. Learned counsel points out that there are Division Bench Judgments which have taken the view that development agreement can be

specifically enforced. Similarly there are judgments to the contrary. Prima facie development agreement creates no interest in property. We are hearing an appeal against an ad-interim order. Considering that, in our opinion, that issue can be considered at the interim stage if required. No case is made out for interference in appeal at this stage.

2. It will be open to the parties to canvass whatever points they have in the Motion at the hearing of interim relief. At the ad-interim stage, what the Court considers, is the urgency considering the prima facie case, balance of convenience and irreparable loss of injury. In our opinion, this would not be a fit case to entertain the appeal. Appeal is rejected. It will be open to the appellant to approach the trial Court for expediting the Motion.

[F.I.REBELLO, J.]

[SMT.V.K.TAHILRAMANI,J.]